IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

WP(C).No. 28598 of 2007(D)

PETITIONER:

ABDUL NAZEER,
S/O.ASSAIANAR
KANNANCHAKKASSERY, PATTANAM
VADAKKEKKARA

BY ADV. SRI.G.SHRIKUMAR
SRI.SREEJITH S.NAIR

RESPONDENTS:
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1. THE VILLAGE OFFICER,
KOTTUVALLI,PO, KOONAMMAVU,
PIN 683518
ERNAKULAM DISTRICT.

2. THE TAHSILDAR,
TALUK OFFICE, PARAVUR.

3. THE DISTRICT COLLECTOR,
ERNAKULAM.

4. THE COMMERCIAL TAX OFFICER
NORTH PARAVUR.

5. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

6. K.S.MANI
S/O.SUBHRAMANIAM,
KAKKANATTU HOUSE, KOTTUVALLI VILLAGE
PARAVUR TALUK, ERNAKULAM DISTRICT.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 28598 OF 2007 D
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Dated this the 16th day of October, 2007

J U D G M E N T

The petitioner is an assignee of 6th respondent. The 6th respondent and others were partners of a firm, which had defaulted in paying their dues to the 4th respondent. In view of the fact that he is an assignee of the 6th respondent, the petitioner apprehends that revenue recovery action, which has originally initiated against the 6th respondent will be continued against him also.

2. According to the petitioner, he is a bonafide purchaser and as the partners themselves are in possession of sufficient resources to discharge their liabilities, in fairness, action should be initiated at least at the first instance against the partners of the firm. With this prayer, petitioner has submitted Ext.P10 representation to the 3rd respondent, which is pending his consideration. Petitioner is also relying on Division Bench judgment of this Court in **St.Arnold Divine Works Society v. State of Kerala (2006(3) KLT S.N. Case No.67)**, where this

court has held as follows:

> Petitioner is a bonafide purchaser who purchased the property for valid consideration before attachment and, therefore, that property cannot be sold for the purpose of the dues of the defaulter. Petitioner is not a guarantor, but, he is a total stranger to the defaulter. He, being a bonafide purchaser, the revenue recovery proceedings taken against the petitioner is wholly unwarranted.

In view of the fact, it is the petitioner's specific contention that the partners of the firm themselves have enough resources to meet the liability, it is only proper that this prayer is considered in the light of the law as laid down in the judgment referred to above.

3. Accordingly, I dispose of this writ petition directing the 3rd respondent to consider and pass orders on Ext.P10 representation submitted by the petitioner, as expeditiously as possible, at any rate within a period of six weeks of receipt of a copy of this judgment.

Petitioner shall produce a copy of this judgment along with a copy of a judgment referred to herein above before the 3rd respondent for compliance.

ANTONY DOMINIC, JUDGE.

Rp